

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF       )  
TIDEWATER UTILITIES, INC. FOR A           )  
CERTIFICATE OF PUBLIC CONVENIENCE AND   )  
NECESSITY TO PROVIDE WATER SERVICES    ) PSC DOCKET NO. 17-1163  
PURSUANT TO 26 DEL. C. §203C             )  
("LANDS OF R&K PARTNERS")               )  
(FILED NOVEMBER 29, 2017)                )

**ORDER NO. 9167**

**AND NOW**, this 16<sup>th</sup> day of January, 2018, the Delaware Public Service Commission ("Commission") determines and orders the following:

**WHEREAS**, on November 29, 2017, Tidewater Utilities, Inc. ("Tidewater") filed an application ("Application"), pursuant to 26 Del. C. §203C(e)(1)b.2, which seeks from the Commission a Certificate of Public Convenience and Necessity ("CPCN") to expand its facilities and operations to provide water service to one parcel of land in Sussex County, Delaware, more specifically identified as Tax Map Parcel Number 335-12.05-4.00, and referred to as "Lands of R&K Partners" (the "Proposed Service Area"); and

**WHEREAS**, notice of the Application was published in the Delaware State News on December 5 and 23, 2017, and in the Sussex County Post on December 6 and 27, 2017; and

**WHEREAS**, the notice informed the public that an evidentiary hearing on the Application would not be held unless there was a meritorious request received within 30 days of publication of the notice; and

**WHEREAS**, on January 2, 2018, the Board of Public Works of the City of Lewes ("Lewes BPW") filed a petition for leave to intervene (the "Petition") in this docket. In the Petition, Lewes BPW stated their objection to the Application on the basis that the Proposed Service Area lies within the Lewes BPW Service Area as defined by the Charter of the Board of Public Works of the City of Lewes ("BPW Charter"); and

**WHEREAS**, pursuant to 26 Del. C. §203C(h)(1), the Commission shall act on an application for a CPCN within 90 days of the submission of a completed application. For good cause shown, and if it finds that the public interest would be served, the Commission may extend the date of its action on an application for an additional period not to exceed 30 days;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE  
VOTE OF NO FEWER THAN THREE COMMISSIONERS:**

1. That Campbell Hay is designated as Hearing Examiner for this matter pursuant to the terms of 26 Del. C. §502 and 29 Del. C. ch. 101 to schedule and conduct, upon due notice, such evidentiary hearings, as may be necessary, to have a full and complete record concerning the Application. Thereafter, Hearing Examiner Hay shall file with the Commission his proposed findings and recommendations. Pursuant to Rule 21 of the Commission's Rules of Practice and Procedure, Hearing Examiner Hay is specifically delegated the authority to grant or deny petitions seeking leave to intervene and for admission of counsel *pro hac vice*. In addition, Hearing Examiner Hay is delegated the

authority, under 26 Del. C. §102(A), to determine the form and manner of any further public notice in this matter.

2. That Tidewater shall give public notice of the evidentiary hearings concerning this matter, by publishing notice in the form attached hereto as Exhibit "A", outlined in black, in the legal classified section of The Delaware State News on January 21, 2018, and in the Cape Gazette newspaper on January 23, 2018. Tidewater shall submit proof of such publication as soon as possible, but no later than the commencement of the evidentiary hearings concerning this matter.

3. Pursuant to 26 Del. C. §203C(h)(1), in order to ensure that adequate time exists for the Hearing Examiner to conduct evidentiary hearings and file his proposed findings and recommendations, the Commission extends the date of action on this Application for the maximum period of 120 days after the date of filing of the Application.

4. That the deadline for filing petitions to intervene pursuant to Rule 21 of the Commission's Rules of Practice and Procedure shall be January 26, 2018.

5. The Commission reserves the jurisdiction and authority to enter such further orders in this matter as may be deemed necessary or proper.

**BY ORDER OF THE COMMISSION:**

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Chair

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Commissioner

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Commissioner

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Commissioner

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Commissioner

ATTEST:

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Secretary



**E X H I B I T   "A"**

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**NOTICE OF EVIDENTIARY HEARING**

**TO:   ALL POTENTIAL WATER CUSTOMERS RESIDING WITHIN TWO MILES OF  
THE MUNICIPAL BOUNDARY OF THE CITY OF LEWES, DELAWARE**

The Delaware Public Service Commission will conduct an evidentiary hearing related to the application for a Certificate of Public Convenience and Necessity ("CPCN") filed by Tidewater Utilities, Inc. ("Tidewater") at the following time and location:

<b>DATE &amp; TIME</b>	<b>LOCATION</b>
Thursday, February 22, 2018 at 10 a.m.	Delaware Public Service Commission Hearing Room 861 Silver Lake Boulevard Dover, Delaware 19904

The evidentiary hearing is being held in accordance with 26 *Del. C.* §503 and 29 *Del. C.* §§ 10122, 10124 and 10125. Anyone planning to attend the evidentiary hearing should consult the Commission's website prior to the event for any change or cancellation in the time, location or date.

### **THE APPLICATION**

On November 29, 2017, Tidewater Utilities, Inc. ("Tidewater") filed an application ("Application"), pursuant to 26 Del. C. §203C(e)(1)b.2, which seeks from the Commission a Certificate of Public Convenience and Necessity ("CPCN") to expand its facilities and operations to provide water service to one parcel of land in Sussex County, Delaware, more specifically identified as Tax Map Parcel Number 335-12.05-4.00, and referred to as "Lands of R&K Partners".

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### **THE EVIDENTIARY HEARING**

Evidentiary hearings are conducted to formally introduce evidence into the record and to make available for cross-examination the parties' witness testimony, including testimony that may be offered with respect to any settlement agreement that may be reached by the parties prior to the hearings. At the evidentiary hearings, the Hearing Examiner will consider the Application, live testimony of the parties, and any other pertinent documents submitted by the parties, including any settlement reached by the parties prior to the hearings. The

Hearing Examiner is obligated to reach a decision based upon the evidence presented at the evidentiary hearings.

If a settlement agreement is reached, the evidentiary hearings will address whether it is in the public interest for the Commission to approve the Settlement Agreement. Subsequent to the evidentiary hearings, at a time not yet determined, this Application along with the Hearing Examiner's Recommendation will be considered by the Commission.

Persons or entities which were granted intervention in this Application may present witnesses, conduct cross-examination, or introduce evidence at the evidentiary hearings. Members of the public are welcome to attend the evidentiary hearing and/or the Commission's meeting as observers.

You are invited to review Tidewater's Application and supporting documents to determine how your interests may be affected. You may review documents pertaining to this matter on the Commission's e-filing website at <https://delafile.delaware.gov>. You may also review copies of the Application and supporting documents at the Wilmington office of the Division of the Public Advocate located at the Carvel State Office Building, 4<sup>th</sup> Floor, 820 North French Street, Wilmington, Delaware 19801 or at the Dover office located at 29 S. State Street, Dover, DE 19901. Please call the Wilmington office at (302) 577-5077 or the Dover office at (302) 241-2555 to arrange for a time to review the documents at that location.



If you wish to request copies of documents in this matter, please submit a Freedom of Information Act Request Form. This form may be found at

[http://delaware.gov/forms/foia\\_request\\_form.pdf](http://delaware.gov/forms/foia_request_form.pdf). A Freedom of

Information Act request can also be made on line at

[http://delaware.gov/help/foia\\_request.shtml?subj=PSC](http://delaware.gov/help/foia_request.shtml?subj=PSC). The

Commission will respond to your request in accordance with the Delaware Freedom of Information Act, 20 Del. C. ch. 100.

If you have a disability and wish to participate, or to review the materials, in these proceedings, please contact the Commission to discuss any auxiliary aids or services you might need to help you. You may contact the Commission in person, by writing, by telephone (including text telephone), by Internet e-mail, or other means.

If you have questions about this matter, you may call the Commission at 1-800-282-8574 (toll-free in Delaware) or (302) 736-7500 (voice and text telephone). You may also send questions by Internet e-mail addressed to [psc@state.de.us](mailto:psc@state.de.us). Include "Docket No. 17-1163" as the subject.